The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

HIGH MAINTENANCE BITCH, LLC, a Washington Limited Liability Company Plaintiff v. UPTOWN DOG CLUB, INC., a Texas Corporation Defendant.	Civil Action No. C07-0888-RSL **DECLARATION OF DANIEL M BRONSKI IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION & IMPROPER VENUE AND FOR A DEFINITIVE STATEMENT** NOTE ON MOTION CALENDAR: AUGUST 17, 2007 ORAL ARGUMENT REQUESTED

Daniel M. Bronski states and declares as follows:

1. I am one of the attorneys for Plaintiff High Maintenance Bitch, LLC ("HMB").
2. I make this declaration in support of Plaintiff''s Response to Defendant's Motion to Dismiss For Lack Of Personal Jurisdiction et al.
3. Attached hereto as Exhibit 1 is a true and correct copy of Uptown Dog's website (www.FunStuffForDogs.com)

Danny Bronski
The Grand Central Building
216 First Ave S. Ste 110
Seattle, WA 98104

4. Attached hereto as Exhibit 2 is a true and correct copy of a live online chat between a prospective customer of Uptown Dog and an operator associated with Uptown Dog

5. Attached hereto as Exhibit 3 is a true and correct copy of emails sent between Danny Bronski and Steven Fricke

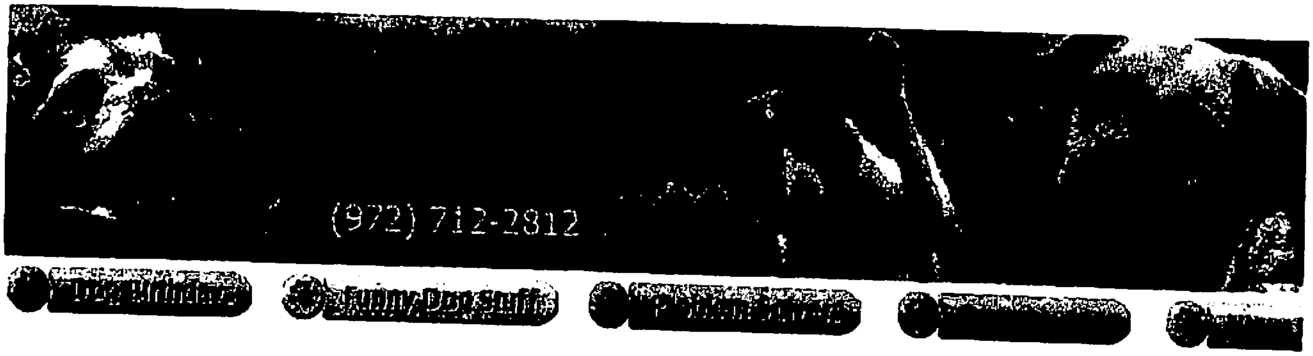
DATED this 13th day of August, 2007.

/s/ Daniel M Bronski

____

Danny Bronski, WSBA #34385
Jim Ruttler, WSBA #37834
Attorneys for Plaintiff HMB

Danny Bronski
The Grand Central Building
216 First Ave S. Ste 110
Seattle, WA 98104



Shipping address (no P.O. Boxes, please):

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Last Name	
Company	
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Address (2)	
City	
State	Washington
Province	
Zip/Postal Code	
Country	United States
Day Phone	
Night Phone	
Email Address	
Comments	
Coupon Code	
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Dog's Breed (or Size)	
Dog's Birthday(MM/DD/YY)	
Name of 2nd Dog	
2nd Dog's Breed (or Size)	
2nd Dog's Birthday (MM/DD/YY)	
Where did you hear about us?	Select One repeat customer catalog

FUN

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Exhibit 1

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Better Homes & Gardens "For Your Dog" magazine
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Modern Dog
Urban Dog
New York Dog
Hollywood Dog
Wag
Fido Friendly
Pampered Puppy
Other Magazine
Newspaper
Referred by Friend
postcard
Other

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(972) 712-2812

Funny Dog Stuff

FUN STUFF FOR DOGS.com

We're in business for dog lovers. We're consumers, just like you, and we want to do business with our customers in the same way that we'd like to be treated. With this in mind,

- Our merchandise is kept in a climate-controlled, smoke-free warehouse.
- We make it easy to reach us
  - we provide a phone number on every page so you can reach a real person when you need to; we will never use e-mail forms as the only means of reaching us
  - we don't use voice-mail menus (we hate them) and we never will
  - if we miss a call, we return it as promptly as possible
- We don't charge your credit card for anything that you don't know about and expressly agree to.
- We plainly show all our prices and shipping costs up front, before you order; we have no hidden fees or conditions.
- We aim to describe products accurately so what you get is what you expect.
- We will never "upsell" you or pressure you into spending more money than you intended to.
- We make prompt and cheerful refunds that meet our basic policies
- We respect your right to privacy. Therefore, we never sell, rent or share your information to another company, or send you mail from other companies.
- We stay in touch with you about the status of your order.
- We hire only people legally eligible to work in the USA.

Back to School
Birthday Dogs
Card Shoppe
Clothing for Dogs
Collars & Leashes
Dog Beds & Furniture
Dog Dishes
Dog Spa
Dog Strollers
Dog Toys
Dog Treats & Chews
Doggles
Fashion for Dogs
Funniest Dog Stuff Ever
Great Gifts
Home Alone
Home & Humans
Jim Tweedy's Friendly Doggies
Monthly Clubs
Organic Dog Products
Problem Solvers
Puppia Luxury Collection
Puppies
Puppy Shower Supplies
Spring Fling
Summer Dog
Teeth & Breath
Travel Products for Dogs

SHOP BY HOLIDAY
Valentine's Day
Easter Baskets & Toys
Mother's Day
Memorial Day Blowout Sale
Halloween Dog Goodies
Thanksgiving
Christmas & Hanukkah

Clearance
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Contests
Funny Dog Tales Newsletter
What's New
Dog Blog
Wholesale Inquiries

"I just wanted to say thanks for saving me! Friday morning I got on the web and found your company. Thank you for giving me the inside tip to get a smaller

As Seen In ...

lucky dog magazine
DOGFANCY
moderndog
daily kibble
Seattle Dog MAGAZINE
NewYorkDog
ATLANTA DogLife
DOG magazine
Naples DOG MAGAZINE
petcentric
DateMyPet.com
Date Me. Date My Pet.
HollywoodDog
akc.org
wagmagazine
urban dog
Better Homes
People
HBO
The New York Times
YAHOO! FINANCE
Daily Herald
The Washington Post Magazine
ajc
DAILY NEWS
PHOENIX HOME & GARDEN
JOURNAL

A property of Uptown Dog Club, Inc.
9188 Chivalry Court
Frisco, TX 75034
(972) 712-2812 - phone
(214) 705-1320 - fax
Lisa M. Woody
Co-Founder, President & Marketing Director

Elaine M. Bennett

Exhibit 1

size -- it's a perfect fit. And, best of all, your recommendation of having it sent Express Mail through the Postal Service (vs. DHL) was right on! We received the collar Saturday morning (in less than 24 hours!). Thank you so much for everything. I've saved your website in my 'favorites.' " - Andy Bennett, Wilsonville, OR

"Thanks so much. I appreciate your quick response. There are a few businesses out there that could learn a thing or two from you about customer service!" - Bill Bowsky, Leesburg, FL

"It's too bad we had to return the Bicycle Basket. I wish our Pappy had not been so afraid to ride with us. But your company has been so totally great about the return. Your people are cheerful and knowledgeable and your return policies are generous. I'll definitely shop with you again." - Sandra Moran, Kansas City, MO

Co-Founder, Vice President & Director of Operations

Frank Woody
Executive Director of Good Ideas

Josephine Albanese
Order Processing & Customer Service

Sharon Regan
Shipping & Purchasing Manager

Susan Raymond, Squid Ink Design
Graphic Designer & Creative Consultant

Dianne Sapra
Product Photography

Gary Lloyd, AutomaticSales.net
Site hosting & consulting

Tim Pepper, Pepper Blue Marketing
e-marketing consultant

972-712-2812

GO BACK TO SHOPPING...

Got a product you think we should carry? Got a question or request? Call 940 597 1612 or write to lisa at funstufffordogs.com. Non-profits and donation requests: mail to address above (no emails or phone inquiries, please)

VIEW CART - CHECKOUT - ABOUT US & CONTACT US - SEARCH - HOME - SHIPPING RATES & POLICIES - F.A.Q. - LINKS

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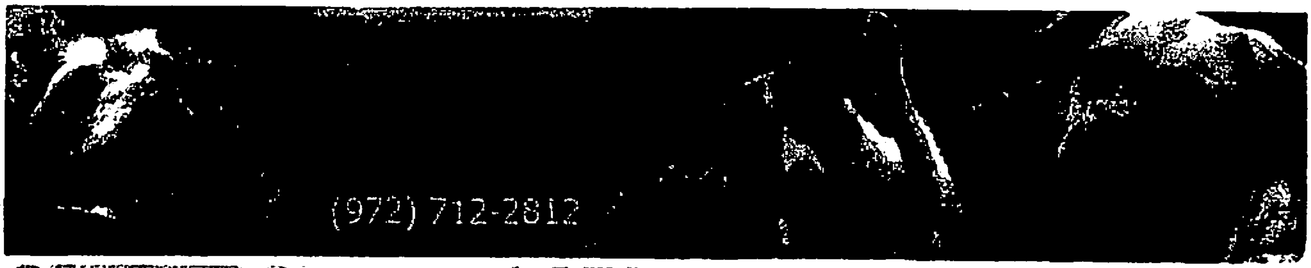
Shop with confidence. Our store uses 128 Bit SSL encryption to protect your information.
Special thanks to Stephen Dremuk. Hosting provided by Automatic Sales Net



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Dog Toys
Dog Treats & Chews
Doggles
Fashion for Dogs
Funniest Dog Stuff Ever
Great Gifts
Home Alone
Home & Humans
Jim Tweedy's Friendly Doggies
Monthly Clubs
Organic Dog Products
Problem Solvers
Puppia Luxury Collection
Puppies
Puppy Shower Supplies
Spring Fling
Summer Dog
Teeth & Breath
Travel Products for Dogs

SHOP BY HOLIDAY
Valentine's Day
Easter Baskets & Toys
Mother's Day
Memorial Day Blowout Sale
Halloween Dog Goodies
Thanksgiving
Christmas & Hanukkah

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Shop our Catalog
Free Shipping Items
Contests

SHIPPING RATES & POLICIES

PAYMENT OPTIONS: We accept VISA, MasterCard, PayPal and Per
by personal check will be shipped after the check clears. Need to oper
here.

RETURN POLICY: We will happily accept returns for items that are ur
Any items (with the exception of edible items, custom beds and persor
returned within 30 days for a full refund of the purchase price. **Refund**
form of a check. Shipping is non-refundable. Complete and send our
your return. We cannot accept returns or exchanges for orders more tl
lost or damaged on their return trip to us, we cannot make a refund. Yo
regular US Mail, but we recommend that you ask for delivery confirma

NON-REFUNDABLE ITEMS: Edible items such as treats and bones a
their perishable nature. Custom items cannot be returned except for m

EXCHANGE POLICY: Ordered the wrong size or color? Simply send t
with our Return/Exchange Form indicating the new item's you would lil
exchange them. If you need your exchange immediately and do not wa
place a new order for the correct item(s) and return the items that you
condition within 30 days of delivery. We will credit your card for the ret
concerns? For fastest response, email us anytime at info@funstu

CANCELLATIONS: Orders cancelled after they are placed and proce
to a $5.00 cancellation fee.

SHIPPING WITHIN THE U.S.
In-stock orders placed by 3:00 p.m. are shipped the same day. Certair
personalized items, etc.) are shipped to you directly from the manufact
for delivery. Occasionally, manufacturers run ad campaigns for produc
out of stock. We will get them back in stock as quickly as possible and

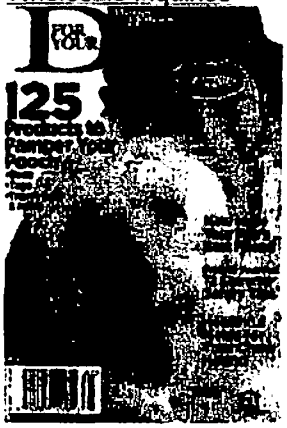
Unless otherwise noted, orders are shipped to you via USPS Priority n
ground. Some large-size items shipped direct from the manufacturer n
charge, which is noted in the item description or during the checkout p

Shipping & handling within the United States (unless otherwise noted o
upon the total amount of your order, as well as any additional weight c
follows:

Orders Between	And	Shipping
$0	$9.99	$4.99
$10	$24.89	$5.95
$24.90	$38.99	$7.95

Exhibit 1

Funny Dog Tales Newsletter
What's New
Dog Blog
Wholesale Inquiries



$40	$59.99	$9.90
$60	$99.99	$11.95
$100.01	$149.99	$19.95
$150	$199.99	$24.95
$200	$249.99	$34.95
$250	$299.99	$41.95
$300	and up	$48.95
Note: large orders that contain large/heavy items such as pet sofa beds may incur additional shipping charges. We will contact you before shipping.		

Shipping to international destinations may require additional funds. Se

INTERNATIONAL ORDERS: Some oversized items may not be avail
Due to the different regulations and weight restrictions in different cour
cannot accurately calculate the actual shipping charges on internation
charges are only ESTIMATES. If the charges are more than what is ca
cart, we will contact you via email with the total charge. In addition, the
assessed to your package when the package enters your country. We
these costs.

Need help? Call us at (972) 712-2812

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boldchat

Support Chat

Your Name: Visitor

History:

Thanks for contacting us. An operator will be with you shortly...

[Lisa] May I help you?
[Visitor] Hi, I'm interested in purchasing one of each of the boas you have - I see that you are in Texas, do you routinely ship into Washington?
[Lisa] We ship all over the USA. But we do not currently have the boas for sale. When did you need them by?
[Visitor] It looks like you guys are a small outfit, how can I trust that I will receive my products? Can you give me an idea of your size and experience?
[Lisa] We are in our fourth year. We guarantee that you will receive your products. We offer exceptional customer service and we ship by trackable courier. Our payment gateway uses 128-bit SSL encryption and we've never had our data broken into, stolen, lost or compromised.
[Lisa] Is this our friend in Seattle?

Exhibit 2

Send Message:

Send

Powered by boldchat

End

Danny Bronski

From: Danny Bronski [danny@veritrademark.com]
Sent: Thursday, August 09, 2007 11:28 PM
To: 'Fricke, Steven P.'
Cc: 'Jim Ruttler'; danny@veritrademark.com
Subject: RE: HMB v. Uptown Dog Club (FOR SETTLEMENT PURPOSES ONLY)

Steve,

Based on our discussion on Tuesday, I think we agree that we may be able to move quickly toward settlement if your client agrees to be transparent about the true extent of its infringement. However, at this point we (as in the HMB lawyers) need to decide whether to devote our resources toward replying to your motion and arguing it on Friday (which we are confident that we can beat easily) and later conducting a more full discovery, or working with you toward possible quick (and less expensive) resolution. We prefer the latter and believe that you should prefer this as well, and thus request that you renote or strike the motion.

If you agree to strike the motion, here is the information that we believe may be sufficient to allow fair and mutually beneficial settlement of this case (in order of priority):

1) Any audited financial statements from 2003-2007
2) If no audited financial statements exist, files from any financial software (such as Peachtree or Quickbooks) along with an affidavit stating that these are true and correct financial statements of Uptown Dog Club
3) If no financial software records or audited financial statements exist, an affidavit stating this along with financial statements from 2003-07 in whatever form available; especially important is total sales records broken down geographically and by product category since 2003

If you wish to draft a protective order, please send it for our review.

Thanks,
Danny Bronski

Exhibit 3

Danny Bronski

From: Danny Bronski [danny@veritrademark.com]
Sent: Monday, July 09, 2007 2:10 PM
To: 'Fricke, Steven P.'
Cc: 'Jim Ruttler'
Subject: FOR SETTLEMENT PURPOSES ONLY

Hi Steven,

Unfortunately, we cannot accept your recommendation, nor can we take you at your word as to the extent of the infringement without seeing hard evidence.

On the one hand, I agree with you that quick settlement prior to answering the complaint is preferable for your clients so that they save on attorneys fees and keep more resources open for settlement, and may be economically efficient if the damages are indeed fairly small. On the other hand, our position is that you have more or less conceded infringement and we've certainly met our prefiling due diligence requirements, and if you want to settle quickly rather than allowing us to go through the procedures set up by federal court system that we would prefer (to determine the true nature and extent of infringement through discovery), please initiate the discussion with a more serious settlement offer.

Please keep in mind that my client has expended a significant amount of resources acquiring patent protection and building a business around their creative ideas, and has been harmed by widespread infringement of these patented ideas. As a result, we intend to see that our client is protected to the extent permitted by law.

Any settlement must include three components:

1) Significant financial restitution for infringement to date
2) An agreement not to infringe in the future (or, alternatively, to license the patents)
3) A confidentiality agreement

Alternatively, you can respond to the complaint and we can proceed with discovery.

Thanks,
Danny Bronski

From: Fricke, Steven P. [mailto:spfricke@townsend.com]
Sent: Tuesday, July 03, 2007 8:46 AM
To: Danny Bronski
Cc: Jim Ruttler
Subject: RE: HMB Patent Infringement Litigation

Danny,

Transparency goes both ways.

For my clients to provide sales figures, it must know which figures you are requesting. Prior to filing your lawsuit, you must have completed a good faith analysis of the products that you believe are infringing. As a result, we are not asking for anything that should not have been completed already and that would come out in discovery. If you prefer, we will file a motion with the Court requesting that you provide us with such information prior to our answering the complaint. However, that should be unnecessary.

As with any litigation, it is best to settle prior to the parties begin paying a lot for attorneys. That way, there should be more resources available for settlement and the clients will not have dug in their heels.

Based upon my understanding, B.A. Barker sold one feather boa collar to a person in South Carolina for about $6.00. Uptown Dog sold approximately $500 of Dog Collars (some which may not fall within your accusations). Assuming you can prove infringement and followed other statutory requirements, your client may be entitled to a reasonable royalty. I don't know what that would be in this market but it would be a lot. Moreover, I do believe neither Judge Coughenour nor Judge Zilly will appreciate having this matter taking up their time when they find out damages are so low and we have agreed to stop selling the accused dog collars.

Here is what I recommend for a prompt settlement:

Your client dismisses these cases without prejudice and we agree not to sell certain type of dog collars. (You will have to inform us of what type of dog collars would be precluded from future sales activities). Each party is responsible for its own attorneys fees and costs.

Please let me know if this is acceptable to you.

Sincerely,
Steve Fricke
-----Original Message-----
From: Danny Bronski [mailto:danny@veritrademark.com]
Sent: Monday, July 02, 2007 9:39 PM
To: Fricke, Steven P.
Cc: 'Jim Ruttler'
Subject: RE: HMB Patent Infringement Litigation

Hi Stephen,

We will take that risk. The nature and extent of the infringement will come out in discovery. If your client is willing to be completely transparent in sharing financial information, this will go a long way toward a quicker settlement. I don't believe it is appropriate to provide you with model numbers or anything else that implies a limitation on our damages at this time.

I will be back in town next week and I have also cc'ed my co-counsel Jim Ruttler.

Thanks,
Danny Bronski

From: Fricke, Steven P. [mailto:spfricke@townsend.com]
Sent: Monday, July 02, 2007 4:43 PM
To: Danny Bronski
Subject: RE: HMB Patent Infringement Litigation

Danny,

B.A. Barker and Uptown Dog have requested that I represent them in the litigation matters pending before U.S. District Court for Western Washington. I understand that you do not want to discuss the cases until after an answers or responses to the complaints are filed. At this time, my clients do not know which products are actually accused of infringement. As a result, please provide me with the models your client is accusing of infringement. This would go a long way towards reaching a settlement in this matter.

For your information, both of my clients have not sold very many collars. As a result, damages will be very low -- if at all. I'm not sure what your client is seeking in this litigation but it runs a big risk of not being able to recoup its fees and costs in these actions.

I will be out of the country during the week of July 15. As a result, I will not be able to confer with you until the final week of July.

Sincerely,

Steven P. Fricke
Townsend and Townsend and Crew LLP
1420 Fifth Avenue
Suite 4400
Seattle, WA 98101
Phone: 206.224.2855
Fax: 206.623.6793
spfricke@townsend.com

www.townsend.com
Offices in: Denver | Palo Alto | San Diego | San Francisco | Seattle | Walnut Creek | Washington, D.C. | Tokyo
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-----Original Message-----
From: Danny Bronski [mailto:danny@veritrademark.com]
Sent: Sunday, July 01, 2007 5:09 PM
To: Fricke, Steven P.
Subject: HMB Patent Infringement Litigation

Hi Stephen,

Thank you for the call on Friday. I am writing to let you know that I prefer to avoid any settlement negotiations or discussion of the case until service has been confirmed and perhaps until an answer has been filed. In any event, I will be out of town this week. Please direct all communication to this email address and we can schedule a phone conference to discuss settlement later this month.

Kind regards,
Danny Bronski

Danny Bronski
VeriTrademark
Attorney

(206) 281-0795 Work
Danny@VeriTrademark.com
VeriTrademark
216 First Avenue S #210
Seattle, WA 98104
http://www.VeriTrademark.com

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of August, 2007, the foregoing Declaration of Daniel M Bronski In Support Of Plaintiff's Response To Defendant's Motion And Memorandum To Dismiss For Lack Of Personal Jurisdiction Pursuant To Civil Rule 12(B)(2) And Improper Venue, Or Alternatively To Transfer And For Plaintiff To Provide A More Definite Statement was filed with the Court using the CM/ECF system which will send notification of such filing to the following:

Steven P. Fricke
Attorney for Defendants
Townsend and Townsend and Crew LLP
1420 Fifth Avenue, Suite 4400
Seattle, WA 98101-2325
spfricke@townsend.com
Executed on August 13, 2007.

/s/ Daniel M. Bronski

____

Danny Bronski
The Grand Central Building
216 First Ave S. Ste 110
Seattle, WA 98104